

EIGHTH DAY

(Tuesday, January 25, 1949)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President pro tempore.

The roll was called and the following Senators were present:

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Moore
Colson	Morris
Corbin	Phillips
Cousins	Proffer
Hardeman	Shofner
Hazlewood	Strauss
Hudson	Taylor
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert

Absent—Excused

Harris

A quorum was announced present.

Reverend Frank Luker, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal approved.

Leave of Absence Granted

Senator Harris was granted leave of absence for today on account of important business on motion of Senator Strauss.

Recess

On motion of Senator Taylor, and by unanimous consent, the Senate at 10:40 o'clock a.m., took recess to 10:50 o'clock a.m. today.

After Recess

The President pro tempore called the Senate to order at 10:50 o'clock a.m. today.

Senate Bills on First Reading

The following bills were introduced, read severally first time and referred to the committees indicated:

By Senators Taylor, Morris, Kelly

of Tarrant, Aikin, Bullock, Proffer, Lock, Strauss, Cousins, Hudson and Jones:

S. B. No. 115, A bill to be entitled "An Act providing a more efficient method of State administration of the public free schools; creating a central education agency, defining the powers and duties thereof; establishing the component parts thereof, including a State Board of Education, a State Commissioner of Education, and a State Department of Education; providing for the appointment of a Textbook Committee, and a State School Investment Commission, with powers and duties of each defined; providing certain general provisions; terminating and abolishing the present State Board of Education and State Superintendent of Public Instruction; repealing conflicting laws or parts of laws; containing a savings clause, and declaring an emergency."

To Committee on Education.

By Senators Lock, Taylor, Proffer, Aikin, Bullock, Cousins, Hudson, Morris and Jones:

S. B. No. 116, A bill to be entitled "An Act providing a minimum Foundation School Program for nine (9) full months of the school year for each child of school age in the public free schools of Texas and establishing the eligibility requirements for grants from the Foundation School Fund applicable to all Texas public school districts in connection therewith; designating the procedure and means by which such program shall be financed; providing a minimum base salary schedule plus increments for teaching experience for public school teachers and repealing all laws in conflict therewith; etc., and declaring an emergency."

To Committee on Education.

By Senators Aikin, Taylor, Proffer, Bullock, Cousins, Lock, Hudson, Morris and Jones:

S. B. No. 117, A bill to be entitled "An Act amending Article XX, Section 4 of House Bill 8, Chapter 184, Acts of the 47th Legislature, Regular Session, 1941, as amended, by changing subsection (4-a), added by H. B. 301, Acts of the 50th Legislature, Regular Session, 1947; providing for the transfer of certain funds to the Foundation School Fund created herein; repealing conflicting laws or parts

of laws; containing a savings clause, and declaring an emergency."

To Committee on Education.

By Senator Hazlewood:

S. B. No. 118, A bill to be entitled "An Act to amend the Public Accountancy Act of 1945, 49th Legislature, known as Article 41a, sections 1 to 27, both inclusive, Revised Civil Statutes of Texas; repealing said Public Accountancy Act of 1945, Article 41a, sections 1 to 27, both inclusive, Act of the 49th Legislature, and any amendments thereto, which is known as the 'Public Accountancy Act of 1945,' providing for the creation of a State Board of Public Accountancy in Texas; providing for the appointment of members of said Board; and prescribing their qualifications, powers and duties in regulating the practice of Public Accountancy in Texas; providing for the issuance of annual permits to practice Public Accountancy; providing for the examination of and issuance of the Certificate of Certified Public Accountant to qualified applicants; providing for the issuance of the Certificate of Registered Public Accountant to qualified applicants; providing for an extension of time within which qualified persons who have been honorably discharged from service in the Armed Forces of the United States or any of the United Nations, whose service was for any length of time during the period from September 16, 1940, to November 1, 1947, may register with the Board and obtain a permit to practice as a Registered Public Accountant; providing for the registration of qualified persons as Senior or Junior Accountants and the issuance of permits to qualified applicants to practice public accountancy as a Senior or Junior Accountant; providing venue and procedure for cancellation of any certificate or permit; repealing all laws in conflict therewith; providing for penalties for violating the provisions of said Act; and declaring an emergency."

To Committee on State Affairs.

By Senator Carney:

S. B. No. 119, A bill to be entitled "An Act making unlawful the sale in Texas of certain defined drugs, commonly called Barbiturates, except by licensed drug stores and upon written prescriptions by persons licensed in

this State to practice medicine and surgery, osteopathy, dentistry and veterinary medicine; fixing penalty for violation thereof; and declaring an emergency."

To Committee on Public Health.

By Senator Taylor:

S. B. No. 120, A bill to be entitled "An Act to amend Title 32, Chapter 3, of the Revised Civil Statutes of the State of Texas, 1925, by adding a new article thereto entitled Article 1327a, declaring and confirming the authority of directors of corporations to pay pensions and to adopt and to amend and to discontinue pension plans, including, but not limited to, the power to contract with insurance carriers with reference thereto, and the power to establish pensions trusts; and declaring an emergency."

To Committee on State Affairs.

By Senator Proffer:

S. B. No. 121, A bill to be entitled "An Act making an appropriation from the General Revenue Fund of the State of Texas, not otherwise appropriated, to supplement the regular appropriation of the State Department of Education: Main Office, so that said Department may be able to maintain supervision of the school libraries of this State totaling two thousand seven hundred and twelve dollars (\$2,712.00) for the remainder of the fiscal year ending August 31, 1949; and declaring an emergency."

To Committee on Finance.

By Senator Jones:

S. B. No. 122, A bill to be entitled "An Act to protect the public health by the regulation of the practice of Naturopathy; to create a Naturopathic Examining Board; to adopt rules and regulations; define the practice of Naturopathy; to provide for Naturopathic Licenses in conformity with the approved definition of Naturopathy; for the registration and cancellation of licenses and for reciprocity; to provide for the enforcement of this Act, and penalties for the violation of this Act; and injunction to provide for educational standards; amending Article 4477, Revised Civil Statutes; to repeal all laws in conflict with this Act; and declaring an emergency."

To Committee on Public Health.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
January 25, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following Resolutions:

H. C. R. No. 10, Designating the third Friday in January of each year as "Arbor Day."

S. C. R. No. 6, Memorializing the death of Honorable J. M. Brownlee.

Respectfully submitted,

CLARENCE JONES,
Chief Clerk, House of Representatives.

Message from the Governor

The President pro tempore laid before the Senate and directed the Secretary to read the following message from the Governor:

Austin, Texas,
January 25, 1949.

To the Members of the Fifty-first Legislature:

The Texas Prison System is one of the institutions of our State which we cannot look upon with pride.

Indeed, prison authorities of the Nation consider it one of the worst institutions of its kind in the United States.

To operate a facility even of this inferior character, the State of Texas spends almost two million dollars annually.

The Texas Prison Board—a group of able, earnest, and courageous citizens of this State—has developed over the past year and a half a program for the complete reorganization and rehabilitation of the System.

They have secured the services of one of the outstanding penologists of America to be General Manager of the System.

Already—even in the dilapidated physical plant which we have—the good results of wise administration are being shown.

A realistic, reasonable, constructive program for the complete rebuilding of the plant and reorganization of the System has been presented.

I approve these recommendations in their entirety and I transmit them to you with the earnest request that

you give these measures your sympathetic consideration.

As submitted by the Board, the new program for the Prison System seeks to accomplish these purposes:

1. To provide a sensible, vigorous program of rehabilitation, religious activity, vocational training, and a "follow-through" plan of readjusting discharged prisoners to useful citizenship through legitimate employment.

2. To improve living conditions for the inmates, segregating the young from the old, first offenders from repeaters, and make other classifications as needed, and to build adequate buildings with single cells to carry out this program.

3. To increase salaries and provide better living conditions for the guards in order to obtain better and more efficient personnel.

4. To modernize and mechanize farming on the 73,010 acres owned by the System.

5. To modify legislation so that the industries need not be operated at a loss. (Under present laws, most manufactured products cannot be sold for more than the cost of the raw materials. No allowance is made for upkeep or replacement of machinery, or wages for supervisors. Under this plan, the more the System manufactures, the greater the loss.)

Nine bills have been prepared to enable the Prison Board to do the kind of a job which I am convinced the people of this State want done. These bills are as follows:

1. A bill to appropriate \$4,196,075 for capital improvements of the Prison plant—including new cell blocks, trusty buildings, industrial shop buildings, hospitals, fences, wells, employee residences and dormitories, and general repair; laundries; bath houses; refrigeration equipment, tools for industrial and housing facilities; farm buildings, silos, feed rooms, milk houses, pasteurizing equipment; farm equipment; livestock.

(It is the considered judgment of the Board that with this building and equipment, and with authority of law requested in the other bills here presented, the Prison System—now costing two million dollars a year—can be made self-supporting in a period of five years.)

2. An emergency appropriation bill for the operation of the Prison System for the remainder of this fiscal year. The population of the Prison System

was 3,457 when the present budget was made. The present population is 5,760 which will be increased to approximately 6,000 when those persons now held in jails are transferred to the Prison. The inmates of the penitentiary cannot be worked in the fields except in shifts due to the small number of guards available. There is an emergent need for new equipment to promote the efficient operation of the plant. Approximately \$530,000 will be required for the operation of the System during the remainder of this fiscal year.

3. In inaugurating the new building program at the Prison System, it is desirable to remove from the statute books the obsolete provision that designs and plans for buildings at the Prison System must be approved by the State Board of Control. Such practice has never been followed and the State Board of Control is willing that the provision be repealed.

4. The present law prohibits the Texas Prison System from selling agricultural or manufactured articles to other agencies of the State at a price in excess of the identical cost of production, with no credit allowed for labor or overhead. Thus, no industrial activity can be undertaken except at financial loss. This is bad business operation and also discourages the Prison System from providing for prisoners essential variety of employment in order that there can be some relationship between the inmate's previous training, native ability, attitude, and work assignment. A bill to accomplish this has been prepared.

5. The statute creating an "industrial revolving fund" for the Prison System is obsolete and should be repealed.

6. The present law providing for the disposition of bodies of convicts who have been legally executed is neither clear nor adequate and a bill to correct this is submitted.

7. At present, much time and expense is involved in sending representatives of the Prison System over the State to testify to the fact that persons on trial were previously in the penitentiary. A bill is proposed which seeks to correct this situation insofar as possible.

8. A bill has been drawn to carry out recommendations of the Prison Board and the Manager in the matter of providing more overtime al-

lowance for trustees than for regular line men.

9. Another measure would make escape from the penitentiary a felony.

The prompt passage of these nine measures is deemed essential to the current operation of the System and to the success of the program for the rehabilitation of the entire system.

I know of no matter likely to come before the 51st Legislature which is more urgent and more important than this.

Therefore, under the authority of Section 5 of Article III of the Constitution, I submit these nine bills to you as matters requiring emergency consideration.

Respectfully submitted,

BEAUFORD H. JESTER,
Governor of Texas.

Report of Committee to Study Texas Educational Needs

The report of the committee, appointed pursuant to H. C. R. No. 48, adopted by the 50th Legislature, to study the educational needs in the State of Texas, was submitted at this time by Senator Taylor, chairman.

Report and Bills Ordered Printed

On motion of Senator Taylor and by unanimous consent, the report of the committee, appointed pursuant to H. C. R. No. 48, adopted by the 50th Legislature and Senate Bills Nos. 115, 116 and 117 were ordered printed in a supplement to today's Journal.

Senate Resolution 20

Senator Strauss offered the following resolution:

Whereas, It has been the custom of the Senate to elect children of the members of the Senate to be Mascots and Sweethearts of the Senate and to include their pictures in the block picture of the Senate, and

Whereas, In years past some children of the members of the Senate have been omitted and have not been so honored, now, therefore, be it

Resolved, By the Senate that all sons of the members of the Senate who have not yet reached their fourth birthday are hereby elected Mascots of the Senate and that their pictures be included in the block picture of the Senate, and be it further

Resolved, That all daughters of

members of the Senate who have not yet reached their fourth birthday are hereby elected Sweethearts of the Senate and their pictures be included in the block picture of the Senate, and be it further

Resolved, That this Resolution shall not include the children previously honored by being elected Mascots or Sweethearts and shall in no way preclude the introduction of Resolutions honoring children of members of the Senate, individually.

The resolution was read and was adopted.

Reports of Standing Committees

By unanimous consent, the following reports were submitted at this time:

Senator Proffer submitted the following report:

Austin, Texas,
January 24, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Education, to whom was referred Senate Bill No. 45, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PROFFER, Chairman.

Senator Weinert submitted the following report:

Austin, Texas,
January 24, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on State

Institutions and Departments, to whom was referred S. B. No. 26, a bill to be entitled, "An Act amending Article 694, Revised Civil Statutes of Texas; and declaring an emergency," have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

WEINERT, Chairman.

Senator Proffer submitted the following report:

Austin, Texas,
January 24, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Education, to whom was referred Senate Bill No. 93, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

PROFFER, Chairman.

House Concurrent Resolution 10

The President pro tempore laid before the Senate for consideration at this time:

H. C. R. No. 10, Designating the third Friday in January of each year as "Arbor Day."

On motion of Senator Colson, and by unanimous consent, the resolution was considered immediately and was adopted.

Adjournment

On motion of Senator Hardeman the Senate at 11:25 o'clock a.m., adjourned until 10:30 o'clock a.m. tomorrow.

In Memory of Honorable Tom Martin

Senator Hardeman presented the following resolution:

(Senate Resolution 18)

Whereas, Honorable Tom Martin of Gillespie County, Texas, was called to his eternal reward on September 21, 1948; and

Whereas, Tom Martin was born in Kerrville, Texas, and was the son of Clarence Martin, and the grandson of W. W. Martin, both of whom were District Judges of the 33rd Judicial District of Texas. Mr. Martin received his formal education in the Fredericksburg public schools, Peacock Military School, San Antonio, Texas, and A. & M. College, and then studied law at the University of Texas and later in his father's office, and was admitted to practice law in Texas in 1914; and

Whereas, He was elected to the House of Representatives of the 35th Texas Legislature at the age of twenty-two years but resigned shortly thereafter to enter the Army. He was a captain of Infantry in World War I, in which he served with great distinction and was awarded the French de Guerre, the Silver Star, and the Purple Heart; and

Whereas, Upon his return from the Armed Forces, he was appointed Chief of Police in San Antonio in 1921, and after leaving this office, he moved to California, where he practiced law from 1924 to 1932. While in California, he received the unanimous endorsement for the Democratic nomination to Congress from the 11th District of California in 1926, but declined the nomination; and

Whereas, He returned to Texas in 1932 and resumed the practice of law in this State and conducted a column for a leading Texas daily for a number of years, and had a daily program over the radio station KNOW in Austin under the title "Sage of the Sage Hills"; and

Whereas, Mr. Martin was appointed County Attorney in Gillespie County in 1945, and was elected to the 50th Legislature in 1946, and renominated to serve in the 51st Legislature; and

Whereas, He was a member of the State Bar of Texas, State Bar of California, Hill Country Bar Association, American Legion, Veterans of Foreign Wars, Disabled American Veterans, Fredericksburg Lions Club, and Chamber of Commerce, and at the time of his death, he was president of the Stick Club, an organization of the original Company I, 141st Infantry, 36th Division (World War I), whose members meet each year on the nearest Saturday to October 8th, the date the Division went over the top in the battle of the Argonne; and

Whereas, He served his District, State, and County, with ability, distinction and credit to himself and with honor to those he represented, and was sympathetic to the problems of his constituents; and

Whereas, He is survived by his widow, Mrs. Lela Martin, and his mother, Mrs. Clarence Martin, both of Stonewall, Texas; and a son, Clarence W. Martin of San Leandro, California; and

Whereas, It is the desire of the Senate to express to the family and friends of Mr. Martin their sorrow and further to recognize the public service of this outstanding Texan; now, therefore, be it

Resolved, By the Senate of the State of Texas, that a copy of this resolution shall be spread upon the Journal of the Senate, and that a copy of the resolution be sent to the surviving widow and the mother of Mr. Martin; and be it further

Resolved, That when the Senate adjourns today that it do so in memory of the Honorable Tom Martin.

HARDEMAN.

The resolution was read.

Signed—Allan Shivers, Lieutenant Governor, Aikin, Ashley, Bell, Bracewell, Bullock, Carney, Colson, Corbin, Cousins, Hardeman, Harris, Hazlewood, Hudson, Jones, Kelley of Hidalgo, Kelly of Tarrant, Lane, Lock, Martin, McDonald, Moffett, Moore, Morris, Phillips, Proffer, Shofner, Strauss, Taylor, Tynan, Vick, Weinert.

On motion of Senator Bell, the names of the Lieutenant Governor and all Members of the Senate were added to the resolution as signers thereof.

The resolution was adopted by a rising vote of the Senate.

In Memory of
Mr. Sam K. Horany

Senator Moffett offered the following resolution:

(Senate Resolution 19)

Whereas, Mr. Sam K. Horany, father of Representative Jimmy P. Horany of the House of Representatives, was killed in an automobile accident at Archer City, Texas, on Monday, January 24, 1949; and

Whereas, Mr. Horany was born in Syria in 1888, and came to the United States in 1904. He settled first in Oklahoma but came to Texas in 1928 and since that time has resided in Archer City, Texas. He was for many years a well known and successful merchant in Archer County. He was a lifelong Democrat, and an active member of the Methodist Church; he was most active in civic affairs and took much interest in the affairs of the Lions Club and the Masonic Lodge; now, therefore, be it

Resolved, That we extend our sincere and heartfelt sympathy to his widow, Mrs. N. S. Horany; to his son, Representative Jimmy P. Horany; to his other sons, Mr. John Horany of Olney, Texas; Mr. Fred Horany of Olney, Texas; and Dr. Melvin Horany of Galveston, Texas; to his daughters, Mrs. Ray Horany of Olney, Texas; Mrs. T. Horany of Ysidro, California; and Mrs. Bill Fleming of Grand Prairie, Texas; and that copies of this resolution be sent to members of his family; and that when the Senate adjourns today, it do so in tribute to the memory of Mr. Sam K. Horany, whose life's work will long live in the affections of his multitude of friends.

MOFFETT

Signed—Allan Shivers, Lieutenant Governor; Senators Aikin, Ashley, Bell, Bracewell, Bullock, Carney, Colson, Corbin, Cousins, Harde-
man, Harris, Hazlewood, Hudson, Jones, Kelley of Hidalgo, Kelly of
Tarrant, Lane, Lock, Martin, McDonald, Moffett, Moore, Morris, Phil-
lips, Proffer, Shofner, Strauss, Taylor, Tynan, Vick, Weinert.

The resolution was read.

On motion of Senator Bullock, the names of the Lieutenant Gov-
ernor and all members of the Senate, were added to the resolution
as signers thereof.

The resolution was adopted.